

AGREEMENT REGARDING PROPOSED STREAM OR LAKE ALTERATION

THIS AGREEMENT, entered into between the State of California, Department of Fish and Game, hereinafter called the Department of California Department of Transportation
 of San Diego, State of California, hereinafter called the operator, is as follows:

WHEREAS, pursuant to Division 2, Chapter 6 of California Fish and Game Code, the operator, on the 18 day of June 1990, notified the Department that he intends to substantially divert or obstruct the natural flow of, or substantially change the channel, or bank of, or use material from the streambed of, the following water: Carmel Valley Creek, in the County of San Diego, State of California, S _____ T _____ R _____.

WHEREAS, the Department (represented by M. Fitzsimmons has made an inspection of subject area c 10 day of July, 19 90, and) has determined such operations may substantially adversely affect existing fish and wildlife resources including: riparian habitat and associated wildlife

THEREFORE, the Department hereby proposes measures to protect fish and wildlife during the operator's work. The operator he agrees to accept the following recommendations as part of his work: Numbers 1,2,3,4,8,12,16,17,18,19,21 from the list of recommendations on the back of this page and the following special recommendations:

1. All work in or near the stream or lake shall be confined to the period prior to 12/31/94
2. The project will consist of widening Interstate Hwy 5 from Genessee Ave. to north of Del Mar Heights Road and Interstate 805 from Mira Mesa Boulevard to the I-5/I-805 junction. The project also will construct direct connectors to Carmel Valley Road (future State Route 56).
3. All mitigation as set forth in EIR numbered SCH #89061421 shall be completed in a timely manner.
4. A comprehensive plan to minimize siltation will be completed prior to beginning of construction and satisfactory measures will be taken to minimize siltation during construction.

The operator, as designated by the signature on this agreement, shall be responsible for the execution of all elements of this agreement. A copy of this agreement must be provided to contractors and subcontractors and must be in their possession at the work.

If the operator's work changes from that stated in the notification specified above, this agreement is no longer valid and a notification shall be submitted to the Department of Fish and Game. Failure to comply with the provisions of this agreement and with pertinent Code Sections, including but not limited to Fish and Game Code Sections 5650, 5652 and 5948, may result in prosecution.

Nothing in this agreement authorizes the operator to trespass on any land or property, nor does it relieve the operator of responsibility for compliance with applicable federal, state, or local laws or ordinances.

THIS AGREEMENT IS NOT INTENDED AS AN APPROVAL OF A PROJECT OR OF SPECIFIC PROJECT FEATURES BY THE DEPARTMENT OF FISH AND GAME. INDEPENDENT REVIEW AND RECOMMENDATIONS WILL BE PROVIDED BY THE DEPARTMENT AS APPROPRIATE ON THOSE PROJECTS WHERE LOCAL, STATE, FEDERAL PERMITS OR OTHER ENVIRONMENTAL REPORTS ARE REQUIRED.

This agreement becomes effective on _____ upon signature

Operator Erlich J. Schumacher
San Diego Project Manager
 Organization Caltrans - Dist. 11
 Date 8/6 - 90

M. Fitzsimmons
 Department Representative
 Title Fish & Game Warden #167
 Department of Fish and Game, State of California
 Date July 10, 1990

Department of Fish and Game Streambed Alteration Agreement
RECOMMENDATIONS

1. Disturbance or removal of vegetation shall not exceed the minimum necessary to complete operations. The disturbed portions of any stream channel or lake margin within the high water mark of the stream or lake shall be restored to as near their original condition as possible.
2. Restoration shall include the revegetation of stripped or exposed areas.
3. Rock, riprap, or other erosion protection shall be placed in areas where vegetation cannot reasonably be expected to become reestablished.
4. Installation of bridges, culverts, or other structures shall be such that water flow is not impaired and upstream or downstream passage of fish is assured at all times. Bottoms of temporary culverts shall be placed at or below stream channel grade. Bottoms of permanent culverts shall be placed below stream channel grade.
5. Plans for design of concrete sills and other features that could potentially impede fish migrations must be approved by Department engineers.
6. When any dam (any artificial obstruction) is being constructed, maintained, or placed in operation, sufficient water shall at all times be allowed to pass downstream to maintain fishlife below the dam.
7. An adequate fish passage facility must be incorporated into any barrier that obstructs fish passage.
8. Any temporary dam (any artificial obstruction) constructed shall only be built from material such as clean gravel which will cause little or no siltation.
9. No equipment will be operated in live stream channels.
10. Equipment shall not be operated in the stream channels of flowing live streams except as may be necessary to construct crossings or barriers and fills at channel changes.

11. When work in a flowing stream is unavoidable, the entire streamflow shall be diverted around the work area by a barrier, temporary culvert, and/or a new channel capable of permitting upstream and downstream fish movement. Construction of the barrier and/or the new channel shall normally begin in the downstream area and continue in an upstream direction, and the flow shall be diverted only when construction of the diversion is completed. Channel bank or barrier construction shall be adequate to prevent seepage into or from the work area. Channel banks or barriers shall not be made of earth or other substances subject to erosion unless first enclosed by sheet piling, rock riprap, or other protective material. The enclosure and the supportive material shall be removed when the work is completed and the removal shall normally proceed from downstream in an upstream direction.
12. Temporary fills shall be constructed of nonerodible materials and shall be removed immediately upon work completion.
13. Equipment shall not be operated in the lake or its margin except during excavation and as may be necessary to construct barriers or fills. If work in the lake is unavoidable, a curtain enclosure to prevent siltation of the lake beyond the immediate working area shall be installed. The enclosure and any supportive material shall be removed when the work is completed.
14. Silt settling basins shall be located away from the stream or lake to prevent discolored, silt-bearing water from reaching the stream or lake.
15. Preparation shall be made so that runoff from steep, erodible surfaces will be diverted into stable areas with little erosion potential. Frequent water checks shall be placed on dirt roads, cat tracks, or other work trails to control erosion.
16. Wash water containing mud or silt from aggregate washing or other operations shall not be allowed to enter a lake or flowing streams.
17. a) A silt catchment basin shall be constructed across the stream immediately below the project site. This catchment

basin shall be constructed of gravel which is free from mud or silt.

b) Upon completion of the project and after all flowing water in the area is clear of turbidity, the gravel along with the trapped sediment shall be removed from the stream.

18. If operations require moving of equipment across a flowing stream, such operations shall be conducted without substantially increasing stream turbidity. For repeated crossings, the operator shall install a bridge, culvert, or rock-fill crossing as specified in comments below.
19. If a stream channel has been altered during the operations, its low flow channel shall be returned as nearly as possible to its natural state without creating a possible future bank erosion problem, or a flat wide channel or sluice-like area. If a lake margin has been altered, it shall be returned as nearly as possible to its natural state without creating a future bank erosion problem. The gradient of the streambed or lake margin shall be as nearly as possible the same gradient as existed prior to disturbance.
20. Structures and associated materials not designed to withstand high seasonal flows shall be removed to areas above the high water mark before such flows occur.
21. No debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete or washings thereof, oil or petroleum products or other organic or earthen material from any logging, construction, or associated activity of whatever nature shall be allowed to enter into or placed where it may be washed by rainfall or runoff into, waters of the State. When operations are completed, any excess materials or debris shall be removed from the work area. No rubbish shall be deposited within 150 feet of the high water mark of any stream or lake.
22. The operator will notify the Department of Fish and Game of the date of commencement of operations and the date of completion of operations at least five days prior to such completion.

CALIFORNIA DEPARTMENT OF FISH AND GAME

4949 Viewridge Avenue
San Diego, California 92123

Notification No. 5-312-90

Page 1 of 3

**AMENDMENT No. 1
AGREEMENT REGARDING PROPOSED STREAM OR LAKE ALTERATION
NOTIFICATION NO. 5-312-90**

THIS Amendment to Agreement Regarding Proposed Stream or Lake Alteration Notification No. 5-312-90, entered into between the State of California, Department of Fish and Game, hereinafter called the Department, and Gregory Gastelum of the State of California, Department of Transportation, District 11, P.O. Box 85406, San Diego, CA 92186, hereinafter called the Operator, is as follows:

WHEREAS, pursuant to Section 1601 of California Fish and Game Code, the Operator, on the 18th day of June, 1990, notified the Department that they intend to divert or obstruct the natural flow of, or change the bed, channel, or bank of, or use material from the streambed(s) of, the following water(s): Carmel Valley Creek, San Diego County, California, Section __ Township 14S-15S Range 3W, Del Mar Quad.

WHEREAS, pursuant to Section 1601 of the Fish and Game Code the Department and Operator entered into an agreement setting forth certain measures/conditions pertaining to the Operator's intent to divert or obstruct the natural flow of, or change the bed, channel, or bank of, or use material from Carmel Valley Creek, a tributary to Los Penasquitos Lagoon, San Diego County, California.

WHEREAS, pursuant to Section 1601 of the Fish and Game Code, the Department and Operator have determined that it is in their mutual interest to amend the Agreement.

THEREFORE, the Department hereby proposes to amend the agreement to further protect fish and wildlife resources during the Operator's work. The Operator hereby agrees to accept the following amended condition and additional conditions as part of the proposed work:

Special Condition No. 2 is amended to add the following:

The project includes new impact areas as described in the Environmental Reevaluation/Addendum dated April 2001 (Addendum) at Los Penasquitos Creek, Soledad Valley Creek, and their unnamed tributaries. The total area of newly identified impacts is 4 acres (3.53 acres are temporary, 0.47 acre is permanent) at the locations specified in Table 4 of the Addendum.

Additional Conditions:

1. The Operator shall not remove vegetation within the stream from February 15 to September 1 to avoid impacts to nesting birds. In addition to this, in order to avoid potential impacts to endangered and fully protected species associated with Los Penasquitos Lagoon, construction will be prohibited between February 15 and September 1 in the area west of the main lanes of I-5 southbound from Carmel Valley Road (Station 562+00) to the detention basin which is located between Sorrento Valley Road and I-5 (Station 557+00). However, the

Amendment No. 1 TO STREAMBED ALTERATION AGREEMENT
NOTIFICATION NUMBER 5-312-90

Operator may perform maintenance activities (hand crews only) within the mitigation sites during this time if a qualified biologist conducts a survey for nesting birds no more than one week prior to the activity, and ensures no nesting birds shall be impacted by the project. If nesting birds are present, no work shall occur until the young have fledged and will no longer be impacted by the project.

2. The Habitat Mitigation and Monitoring Proposal for Interstate 5 Widening and Interchange Improvements Stage 3 (Monitoring Proposal) dated May 2001 shall be implemented as proposed, except for the following changes:

- All mitigation sites shall be monitored, and maintained as necessary to meet the success criteria, for a minimum of 5 years. The success criteria for all planted areas shall be 75% cover after 3 years and 90% cover after 5 years. These cover criteria describe the area of ground covered by the woody species only (trees and shrubs) without adding in overlapping canopies, and the composition of the woody species shall be similar to the percent planted and at a density typical for this type of habitat. If the cover requirements have not been met, the Operator is responsible for replacement planting that will achieve these requirements. Replacement plantings shall be monitored with the same requirements for at least 5 years after planting.
- At the 1.0-acre site adjacent to the Carmel Valley River Enhancement Project (CVREP): The Operator is solely responsible for design and maintenance of the site in a manner that will result in the long-term viability of the target habitat. If freshwater marsh species invade the site, this vegetation type shall not cover more than 50% of the site. Hydroseeded slopes shall result in at least 60% cover of shrubs after 5 years (based on a visual estimate of ground area covered by shrub canopy).
- All perennial exotic plant species shall be removed from all mitigation sites (areas for both temporary and permanent impacts) before they set seed. If any exotic perennial plants are allowed to set seed within any mitigation areas, this shall result in an additional year of maintenance and monitoring over the entire site for each year that this occurs.
- All plants (both container and seed) used for restoration shall be endemic species.
- Caltrans quarterly inspections shall be done by the project biologist or a representative approved by the project biologist.
- All restoration for temporary impacts shall be implemented in the appropriate season immediately following project construction at that location.
- The monitoring report shall include, at a minimum, the following:
Restoration site for permanent impacts (adj. to CVREP)
 - %cover for total vegetation cover, tree, shrub, herb and open (overlap is not counted within each of these categories), plus cover values for each woody species (the sum of these values can be >100% due to overlapping canopies of the different species)
 - an estimate of % cover of perennial exotic plants
 - the number, species and date for all replacement plantings
 - an evaluation of the restoration effort to date
 - a description of any remedial measures needed in the coming year
 - photographs from the permanent photo stations

Amendment No. 1 TO STREAMBED ALTERATION AGREEMENT
NOTIFICATION NUMBER 5-312-90

Restoration areas for temporary impacts

- a visual estimate of % cover of the target plant community for each site (either mule fat or willow)
- a brief description of other dominant species
- an estimate of % cover of perennial exotic plants
- an evaluation of the restoration effort to date
- a description of any remedial measures needed in the coming year
- one photograph of each site taken from the same location each year

3. Each year, the Operator shall provide proof to the Department that the recommendations and/or remedial measures in the monitoring report have been implemented, and that they were done according to the time line. The confirmation for each recommendation/remedial measure must be acceptable to the Department and must be post-marked or e-mailed no later than 5 working days after the implementation date in the time line.

4. Structures and associated materials not designed to withstand high seasonal flows shall be removed to areas above the high water mark before such flows occur.

5. The Department reserves the right to enter the project site at any time to ensure compliance with the terms/conditions of this Agreement.

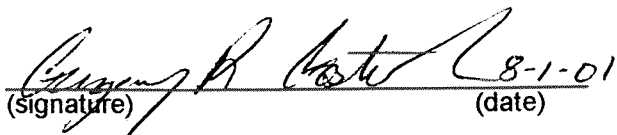
6. The Operator **shall** notify the Department, **in writing, at least five (5) days prior to initiation of construction (project) activities and at least five (5) days prior to completion of construction (project) activities.** Notification shall be sent to the Department at 4949 Viewridge Avenue, CA 92123, Attn: Pam Beare/SAA No. 5-312-90.

7. It is understood the Department has entered into this Streambed Alteration Agreement for purposes of establishing protective features for fish and wildlife. The decision to proceed with the project is the sole responsibility of the Operator, and is not required by this agreement. **It is further agreed all liability and/or incurred cost related to or arising out of the Operator's project and the fish and wildlife protective conditions of this agreement, remain the sole responsibility of the Operator.** The Operator agrees to hold harmless the State of California and the Department of Fish and Game against any related claim made by any party or parties for personal injury or any other damages.

All other Conditions of the Agreement remain in effect.

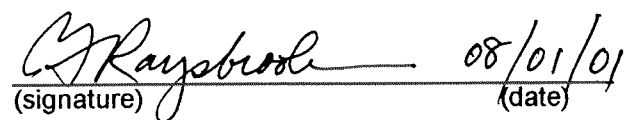
CONCURRENCE

CALIFORNIA DEPT. OF TRANSPORTATION


(signature) (date)

GREGORY R. BASTUM, PROJECT MANAGER
(Type or print name and title)

CALIFORNIA DEPT. OF FISH AND GAME


(signature) (date)

C.F. Raysbrook, Regional Manager

DEPARTMENT OF FISH AND GAME
330 Golden Shore, Suite 50
Long Beach, California 90802
(310) 590-5880

REQUEST TO EXTEND STREAM/LAKE ALTERATION AGREEMENT

Pursuant to Section 1600 et seq., I, as Operator (or representative thereof) request the Department of Fish and Game extend Agreement No. 5-312-90 regarding activities within or adjacent to an unnamed tributary to Carmel Valley Creek, in San Diego County.

ENCLOSE COPY OF ORIGINAL AGREEMENT

Original Termination Date: December 31, 1994

Number of extensions specified in Agreement: Not specified.

Project Description: The project will consist of widening Interstate 5 from Genessee Avenue to north of Del Mar Heights Road and Interstate 805 from Mira Mesa Boulevard to the I-5/I-805 junction. The project will also construct direct connectors to Carmel Valley Road (future State Route 56). All mitigation as set forth in EIR numbered SCH #89061421 shall be completed in a timely manner. A comprehensive plan to minimize siltation will be completed prior to beginning of construction and satisfactory measures will be taken to minimize siltation during construction.

Specific portions of project construction which will not be/were not completed by date specified in agreement: Complete the remaining portions of the dual freeway from Genessee Avenue and Mira Mesa Boulevard to Del Mar Heights Road. Construct the remaining bridges at the I-5/I-805 junction including widening the existing bridges and constructing a new southbound I-5 to southbound I-805 connector, including the Carmel Mountain Road Interchange.

Reasons project will not be/was not completed by date specified in agreement (include status of mitigation): Long-term multi-phased project.

New termination date requested: 31 December, 2000.

I agree to abide by all terms and conditions of above-specified Agreement and understand that additional terms and conditions may be required by the Department if conditions affecting wildlife have changed.

SIGNATURE: Bruce April DATE: 3/02/00

PLEASE PRINT NAME: Bruce April, Manager

ADDRESS: P.O. Box 85406, San Diego, CA 92186 M.S. 46

PHONE NUMBER: (619) 688-6754 FEE ENCLOSED: \$109.00

(Requests submitted without fee will be returned to sender)

(Please remember to enclose copy of original agreement)

FOR OFFICE USE ONLY

EXTENSION:

APPROVED 3/6/2000

BY DON CHADWICK, ESQ.

NEW AGREEMENT EXPIRATION DATE December 31, 2000

(A copy of this extension form must be kept on site, with the original agreement, during all periods of work)

OK to extend

Don't know
OK to extend
11

REQUEST TO EXTEND STREAM/LAKE ALTERATION AGREEMENT

Pursuant to Section 1600 et seq., I, as Operator (or representative thereof) request the Department of Fish and Game extend

Agreement No. 5- 312 -90 regarding activities within or adjacent to Carmel Valley Creek water, in San Diego County.

ENCLOSE COPY OF ORIGINAL AGREEMENT

Original Termination Date: 12/31/94

Number of extensions specified in Agreement: Not specified

Project Description: 56 connector to I-5, widening of I-5 and I-805 for State Route 56

Specific portions of project construction which will not be/were not completed by date specified in agreement: Soundwalls, High Occupancy Vehicle lanes, Interchanges.

Reasons project will not be/is not completed by date specified in agreement (include status of mitigation): Construction is ongoing.

New termination date requested: Maximum extension

I agree to abide by all terms and conditions of above-specified Agreement and understand that additional terms and conditions may be required by the Department if conditions affecting wildlife have changed.

SIGNATURE: [Signature] FOR

DATE: 5 OCTOBER 1998

PLEASE PRINT NAME: John P. Rieger

ADDRESS: 2829 Juan St. San Diego, CA 92186-5406

PHONE NUMBER: (619) 688-6754 FEE ENCLOSED: \$109.00

(Requests submitted without fee will be returned to sender)

(Please remember to enclose copy of original agreement)

FOR OFFICE USE ONLY

EXTENSION: APPROVED [Signature]

BY

[Signature]

NEW AGREEMENT EXPIRATION DATE

12/31/99

(A copy of this extension form must be kept on site, with the original agreement, during all periods of work)

SAA21-R5-7/96

S 312-90

REQUEST TO EXTEND STREAM/LAKE ALTERATION AGREEMENT

Pursuant to Section 1600 et seq., I, as Operator (or representative thereof) request the Department of Fish and Game extend Agreement No. 5-312-90 regarding activities within or adjacent to Carmel Valley Creek water, in San Diego County.

ENCLOSE COPY OF ORIGINAL AGREEMENT

Original Termination Date: _____

Number of extensions specified in Agreement: _____

Project Description: _____

Specific portions of project construction which will not be/were not completed by date specified in agreement: _____

Reasons project will not be/was not completed by date specified in agreement (include status of mitigation): _____

New termination date requested: _____

I agree to abide by all terms and conditions of above-specified Agreement and understand that additional terms and conditions may be required by the Department if conditions affecting wildlife have changed.

SIGNATURE: _____ DATE: _____

PLEASE PRINT NAME: _____

ADDRESS: _____

PHONE NUMBER: _____ FEE ENCLOSED: _____
(Requests submitted without fee will be returned to sender)

* (Please remember to enclose copy of original agreement)

FOR OFFICE USE ONLY

EXTENSION: _____ APPROVED OK BY Pickerson

NEW AGREEMENT EXPIRATION DATE 12/31/98

(A copy of this extension form must be kept on site, with the original agreement, during all periods of work)

DEPARTMENT OF FISH AND GAME
330 Golden Shore, Suite 50
Long Beach, California 90802
(310) 590-5880

REQUEST TO EXTEND STREAM/LAKE ALTERATION AGREEMENT

Pursuant to Section 1600 et seq., I, as Operator (or representative thereof) request the Department of Fish and Game extend Agreement No. 5-312-90 regarding activities within or adjacent to CARMEL VALLEY CREEK water, in SAN DIEGO County.

ENCLOSE COPY OF ORIGINAL AGREEMENT

Original Termination Date: _____
Number of extensions specified in Agreement: _____

Project Description: _____

Specific portions of project construction which will not be/were not completed by date specified in agreement: _____

Reasons project will not be/was not completed by date specified in agreement (include status of mitigation): _____

New termination date requested: _____

I agree to abide by all terms and conditions of above-specified Agreement and understand that additional terms and conditions may be required by the Department if conditions affecting wildlife have changed.

SIGNATURE: _____ DATE: _____

PLEASE PRINT NAME: _____

ADDRESS: _____

PHONE NUMBER: _____ FEE ENCLOSED: _____

(Requests submitted without fee will be returned to sender)

(Please remember to enclose copy of original agreement)

FOR OFFICE USE ONLY

EXTENSION: APPROVED OK BY Dickerson

NEW AGREEMENT EXPIRATION DATE 12/31/97

(A copy of this extension form must be kept on site, with the original agreement, during all periods of work)

DEPARTMENT OF FISH AND GAME

330 Golden Shore, Suite 50
Long Beach, California 90802
(310) 590-5137

Date: 8/28/96

Dear: Applicant

Extension for Stream/Lake Alteration Agreement

Number 5- 312-90 for Carmel Creek in
San Diego County

Pursuant to Fish and Game Code Section 1600 et seq., this letter, when countersigned by you, amends our agreement, extending the period during which activities authorized by this agreement may continue. The new termination date of this Agreement is 12/31/96.

Be advised that all terms of this Agreement remain in effect throughout the new term of the agreement.

A copy of said agreement and this extension letter must be kept on site and must be shown, upon request, to Department Personnel during all periods of work.

Two copies of this letter are being sent to you. PLEASE RETURN ONE SIGNED ORIGINAL to the Department of Fish and Game Streambed Alteration section at the letterhead address.

Sincerely,

Curt Taucher
Deputy Regional Manager
Region 5

CONCURRENCE: Timothy E. Ellis DATE: 9/13/96

DEPARTMENT OF FISH AND GAME

330 GOLDEN SHORE, SUITE 50
LONG BEACH, CA 908025,32
1/1/95

(310) 590-5864

Date: 12/27/94

Dear Applicant:

Extension for Stream/Lake Alteration Agreement

Number 5- 312-90 for Carmel Valley Creek in
San Diego County

Pursuant to Fish and Game Code Section 1600 et seq., this letter, when countersigned by you, amends our agreement, extending the period during which activities authorized by this agreement may continue. The new termination date of this Agreement is 12/31/95.

Be advised that all terms of this Agreement remain in effect throughout the new term of the agreement.

A copy of said agreement and this extension letter must be kept on site and must be shown, upon request, to Department personnel during all periods of work.

Two copies of this letter are being sent to you. PLEASE RETURN ONE SIGNED ORIGINAL to the Department of Fish and Game Streambed Alteration section at the letterhead address.

Sincerely,

Curt Taucher
Environmental Services Supervisor
Region 5CONCURRENCE: J. L. P. RiegerDATE: 3 Jan 95

SAA11-R5-8/94